

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDREW PERRONG, individually and on
behalf of all others similarly situated,
Plaintiff,

v.

CHIMA, L.L.C.

Defendant.

Case No. 2:22-cv-04654-JS

**PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY
IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS**

Plaintiff respectfully files this Notice of Supplemental Authority in Opposition to Defendant’s motion to dismiss. Earlier this week, Judge Baylson issued the first opinion in this Court addressing the Third Circuit’s decision in *Panzarella*, cited in both Plaintiff and Defendant’s briefs. There, Judge Baylson stated that the ATDS question “is a mixed question of fact and law” and denied defendants’ motion, holding there was a genuine issue of material fact as to whether a particular telephone system qualified as an ATDS under *Panzarella*. *Smith v. Vision Solar LLC*, No. 20-2185, 2023 WL 2539017 at *2 (E.D. Pa. Mar. 16, 2023).

Because the opinion makes clear that, after *Panzarella*, an ATDS system’s capability is for the factfinder to determine, Defendant’s motion to dismiss should be denied.

Dated: March 18, 2023

/s/ Anthony I. Paronich

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